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Attorneys for Defendant
MAKSIM ZAITSEV

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAKSIM ZAITSEV,

Defendant.

Case No. 2:25-cr-00154-SPG

MAKSIM ZAITSEV'S SECOND *EX*
***PARTE* APPLICATION FOR**
ISSUANCE OF OUT-OF-DISTRICT
WRIT OF HABEAS CORPUS AD
TESTIFICANDUM

1 **APPLICATION FOR WRIT ISSUANCE**

2 Maksim Zaitsev applies ex parte for a second time for an order issuing a Writ of
3 Habeas Corpus Ad Testificandum for Kseniia Popova, Mr. Zaitsev's long-term partner
4 who is being held at the Northwest ICE Processing Center (NWIPC) in Tacoma,
5 Washington.

6 Mr. Zaitsev filed his initial ex parte application on April 25, 2025, and the Court
7 denied it without prejudice on May 1, 2025. In denying the application, the Court cited
8 the factors courts must weigh in civil cases when determining whether to issue a writ of
9 habeas corpus ad testificandum. Dkt. 74 at 3 (citing *Brooks v. Centurion of Arizona*
10 *LLC*, No. CV-21-00265-TUC-JCH, 2022 WL 625728, at *1 (D. Ariz. Feb. 2, 2022) &
11 *Wiggins v. Cty. of Alameda*, 717 F.2d 466, 468 n.1 (9th Cir. 1983)). Those factors
12 include (1) whether the prisoner's presence will substantially further the resolution of
13 the case; (2) the security risks presented by the prisoner's presence; (3) the expense of
14 the prisoner's transportation and safekeeping; and (4) whether the suit can be stayed
15 until the prisoner is released without prejudice to the cause asserted. *Id.* The Court
16 found that the ex parte application had satisfied factors (1) and (2), but denied it
17 because the third factor had not been addressed. Specifically, the Court requested
18 information regarding the logistics and costs of transferring Ms. Popova from
19 administrative ICE custody to the custody of the U.S. Marshal Service, transporting and
20 housing her in the District, and returning her to ICE custody. *Id.*

21 The defense disagrees that this standard applies to defendants in criminal cases,
22 who, unlike civil plaintiffs, have a constitutional right to compulsory process to obtain
23 witnesses and evidence in their favor. *Soo Park v. Thompson*, 851 F.3d 910, 919 (9th
24 Cir. 2017) ("The right to compulsory process encompasses '[t]he right to offer the
25 testimony of witnesses, and to compel their attendance, if necessary.'" (quoting
26 *Washington v. Texas*, 388 U.S. 14, 18-19 (1967))). District courts may issue testimony
27 writs to secure a detained witness's presence at trial. *Wiggins v. Alameda Cty.*, 717 F.2d
28 466, 468 & n.1 (9th Cir. 1983); *Greene v. Prunty*, 938 F. Supp. 637, 638 (S.D. Cal.

1 1996). “Courts have generally required criminal defendants requesting such writs to
2 comply with Fed. R. Crim. Proc. 17(b), which looks for a satisfactory showing . . . that
3 the presence of the witness is necessary to an adequate defense.” *United States v. Smith*,
4 924 F.2d 889, 896 (9th Cir. 1991). As the Ninth Circuit has explained, that necessity
5 showing is met so long as the defendant avers colorable facts “which, if true, would be
6 relevant to any issue in the case[.]” *United States v. Sims*, 637 F.2d 625, 627 (9th Cir.
7 1980).

8 Nevertheless, the defense has conferred with government counsel regarding the
9 information requested by the Court and was provided cost estimates for Ms. Popova’s
10 transportation and confirmation that she can be housed in custody at MDC in Los
11 Angeles while she is in the District to serve as a witness. *See* Shelley Decl. ¶ 4. Now
12 that the government has been made aware of the defense’s request for Ms. Popova to be
13 made available as a witness, the parties can coordinate any further logistics that need to
14 be arranged.

15 For the reasons stated above, in the initial ex parte application, and in the
16 accompanying declaration, Mr. Zaitsev requests that the Court grant this application
17 and issue the out-of-district writ attached to the accompanying [Proposed] Order.

18 Respectfully submitted,

19 CUAUHTEMOC ORTEGA
20 Federal Public Defender

21 DATED: May 7, 2025

22 By /s/ Ryan Shelley

23 Ryan Shelley
24 Shannon Coit
25 Deputy Federal Public Defenders
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27
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DECLARATION OF RYAN SHELLEY

I, Ryan Shelley, hereby state and declare as follows:

1. I am a California-licensed Deputy Federal Public Defender in the Central District of California appointed to represent Maksim Zaitsev, in the above-titled action. Unless otherwise stated, I make this declaration based on personal knowledge and, if called as a witness, would attest to its contents under oath.

2. Mr. Zaitsev is charged with assault on a federal officer resulting in bodily injury. He intends to call Kseniia Popova as a witness.

3. Ms. Popova is currently being held at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

4. I conferred with government counsel regarding the information requested by the Court in its order denying the first ex parte application. In response, AUSA Neil Thakor shared the following information via email:

a. The approximate costs of transporting Ms. Popova from Tacoma, Washington to Los Angeles includes the following:

i. 3 roundtrip tickets from Tacoma to LAX, for two agents and Ms. Popova. Assuming a flight at 6:30 am on May 21 and a return flight at 1:58 pm the same day, the current cost for each flight would be \$562 (not including taxes and fees) for a total cost of approximately \$1700.

ii. Rental car for transport to and from airport (approx. \$100-\$250)

iii. Labor costs, and possibly overtime, for 2 agents to escort Ms. Popova (not yet calculated).

b. MDC that they can house ICE detainees, but only for 48 hours maximum. Ms. Popova would need to be under lockdown the entire time she is housed at MDC because she must be kept separate from the other pretrial inmates.

